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UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF NEW YORK

Case No. 12-12020-mg

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In the Matter of:

RESIDENTIAL CAPITAL, LLC, et al.,
Debtors.

- - - - -x

United States Bankruptcy Court
One Bowling Green
New York, New York

June 29, 2017
11:04 AM

B E F O R E:
HON. MARTIN GLENN
U.S. BANKRUPTCY JUDGE

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(CC: Doc# 10391) Motion for Entry of Civil Contempt Order
Against Chaledeeannka Deborah Ann Williams Goyens-Bell
Eberwein.

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BY: ANDREW D. VELEZ-RIVERA, ESQ.

RESIDENTIAL CAPITAL, LLC, ET AL.

4

1 P R O C E E D I N G S

2 THE COURT: All right, please be seated. We're here
3 in Residential Capital, 12-12020. I'll get the appearances.

4 MR. ROSENBAUM: Good morning, Your Honor. Norm
5 Rosenbaum, Morrison & Foerster, for the ResCap Liquidating
6 Trust.

7 THE COURT: Okay.

8 MR. VELEZ-RIVERA: Good morning, Judge.

9 THE COURT: Let Mr. Velez-Rivera make his --

10 MR. VELEZ-RIVERA: Andy Velez-Rivera for the U.S.
11 Trustee.

12 THE COURT: Thank you very much.

13 MR. ROSENBAUM: Your Honor, the only matter on this
14 morning is the U.S. Trustee's motion, so I'll cede the podium
15 to --

16 THE COURT: Okay.

17 MR. VELEZ-RIVERA: Good morning, Your Honor. This a
18 motion for contempt -- for civil contempt, I should clarify,
19 against Chaledeeannka Goyens. Mr. Goyens violated a permanent
20 injunction issued by Judge Lane four years ago, this month, in
21 2013. As far as we can see, Ms. Goyens has violated the
22 permanent injunction in three different ways.

23 In suing somebody in the San Francisco District Court,
24 she sued two of our deputy clerks, and --

25 THE COURT: I'm sorry, for laughing. I hadn't --

1 MR. VELEZ-RIVERA: No, it's quite all right, Your
2 Honor. It would be --

3 THE COURT: It's not funny.

4 MR. VELEZ-RIVERA: -- laughable --

5 THE COURT: It's not funny.

6 MR. VELEZ-RIVERA: -- if it wasn't so serious.

7 THE COURT: I know. Absolutely.

8 MR. VELEZ-RIVERA: It's one of those occasions.

9 But --

10 THE COURT: What ever happen about that?

11 MR. VELEZ-RIVERA: That lawsuit was appealed by Ms.
12 Goyens to the Ninth Circuit Court of Appeals, which after a
13 couple of rounds with Ms. Goyens back and forth, eventually
14 dismissed the appeal. So our deputy clerks are off the hook.

15 THE COURT: Okay.

16 MR. VELEZ-RIVERA: Ms. Goyens violated the injunction
17 by telephoning -- as far as we're concerned -- one of the
18 deputy clerks downstairs and telling her you're hereby being
19 served.

20 She also violated the injunction by filing two
21 documents in this case, both of which I'll shorthand and call
22 them requests for notice, one of which has been restricted from
23 public view by the Clerk's Office, the other of which still
24 remains on the docket. That's document number 10358 in these
25 cases.

1 We believe that the permanent injunction was very
2 clear in prohibiting Ms. Goyens from "sending any
3 communications in any form to 'deputy clerks'" in this
4 courthouse. We also believe that complying with the injunction
5 is very easy, Your Honor, because it simply commanded Ms.
6 Goyens to refrain from doing something that's very easy to
7 refrain from doing in the first place.

8 As set forth in my declaration and the exhibits, we
9 believe that we have clear and convincing evidence of Ms.
10 Goyens' noncompliance with the injunction. And based on
11 everything we've seen, she hasn't been very reasonably diligent
12 in attempting to accomplish what it was that was ordered.

13 And in terms of sanctions, Your Honor, looking ahead,
14 we've structured a series of sequentially escalating sanctions.
15 First, the only way that Ms. Goyens can bring us back to the
16 status quo, is just by filing a withdrawal of the request for
17 notice that remains outstanding in this case; and if she
18 doesn't do that within thirty days, then we proposed a one-
19 hundred-dollar daily -- a fine of a hundred dollars a day --
20 let me put it that way -- for thirty days after that.

21 And if the document isn't withdrawn within those sixty
22 days, then we propose that the sanctions stop at that point,
23 which would be day number sixty, and that the Clerk be directed
24 to restrict the document from public view. And that way, we
25 would give the sanctions -- assuming that Ms. Goyens does not

1 withdraw the document, we would have some finality to the
2 sanctions and not leave it open-ended.

3 THE COURT: Was she served?

4 MR. VELEZ-RIVERA: Your Honor, in terms of notice, she
5 uses a post office box in San Francisco on every legal document
6 that she's filed lately here and in San Francisco. We served
7 her at that post office box. And I did it myself.

8 THE COURT: Okay.

9 MR. VELEZ-RIVERA: And nothing ever came back. And
10 I've received --

11 THE COURT: Okay.

12 MR. VELEZ-RIVERA: -- no response whatsoever.

13 THE COURT: Well, your motion is granted. We'll enter
14 the relief you're seeking. I'm going to put in a further
15 explanatory order or opinion not for publication, just to make
16 it crystal clear that all the standards for civil contempt have
17 been satisfied.

18 I don't plan to put any of this in what I put in
19 writing, but has your office considered whether to make a
20 criminal referral under 18 U.S.C. 402 or 152(4)?

21 MR. VELEZ-RIVERA: I would usually keep that off-the-
22 record, Your Honor, but we have. A long time ago. Nothing
23 happened.

24 THE COURT: Nothing happens. Okay.

25 So the relief you're seeking is granted.

RESIDENTIAL CAPITAL, LLC, ET AL.

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1 MR. VELEZ-RIVERA: Thank you, Your Honor.

2 THE COURT: And I'll put something else in writing
3 about -- I mean, Judge Lane did it, but it didn't do any --
4 none of this seems to do any good.

5 MR. VELEZ-RIVERA: That is correct, Your Honor. The
6 injunction, as far as I'm aware, has also been violated by Ms.
7 Goyens by filing other documents in the San Francisco
8 bankruptcy court and in the suburbs of San Francisco. She
9 comes and goes in terms of her prolific filings.

10 This may quell the filings for a little bit and then
11 they may start a couple of years from now, again. Who knows?

12 THE COURT: Okay.

13 MR. VELEZ-RIVERA: Your Honor, the only thing I would
14 ask is may my declaration be admitted into evidence?

15 THE COURT: Absolutely.

16 MR. VELEZ-RIVERA: Okay.

17 THE COURT: So your -- let's see. The declaration of
18 Andrew D. Velez-Rivera is filed as ECF docket number 1031-2
19 (sic). The motion -- it's a motion for United States Trustee's
20 motion for entry of civil contempt order against Chaledeeannka
21 Deborah Ann Williams Goyens-Bell Eberwein. And that's at ECF
22 10391. The memorandum of law in support is at 10391-1, and
23 your declaration is at 1031-2 (sic) at -- it's got to be
24 10391-2. I think I have a typo. But your declaration is
25 admitted into evidence --

1 (Declaration of Andrew D. Velez-Rivera was hereby received
2 into evidence as Trustee's Exhibit, as of this date.)

3 MR. VELEZ-RIVERA: Okay.

4 THE COURT: -- in support of the motion And the
5 motion is granted and the relief you're seeking will be
6 entered, and we'll see what follows from it.

7 MR. VELEZ-RIVERA: Hopefully.

8 THE COURT: Okay.

9 MR. VELEZ-RIVERA: I'll send an order to chambers,
10 Your Honor.

11 THE COURT: That's good. All right.

12 MR. VELEZ-RIVERA: Thank you.

13 THE COURT: Thanks very much. Okay.

14 Since you're here, Mr. Rosenbaum, what -- is there
15 more coming up? What's the status? We should be pretty well
16 done.

17 MR. ROSENBAUM: So Your Honor, I can speak to -- I can
18 speak to both trusts, for the most part. The ResCap
19 Liquidating Trust, in terms of claims issue, I believe we're
20 almost done. If there's maybe -- I can only think of maybe one
21 or two claims that my firm's been handling. And I would expect
22 those to be resolved.

23 I believe the claims that Kramer Levin is handling
24 is -- I think they're pretty much done as well. I mean, I can
25 confirm that if Your Honor would like. But in terms of the

1 claims activity for the Liquidating Trust, I wouldn't expect
2 much of anything.

3 The Borrower's Trust, there are two claims that are
4 still in dispute.

5 THE COURT: Did Mr. Moss appeal?

6 MR. ROSENBAUM: Mr. Moss appealed. But in addition to
7 those two claims, both of which we are making efforts to
8 settle, and we'll see if we're successful or not -- in addition
9 to those, there are approximately five matters at the Second
10 Circuit in addition to Mr. Moss' appeal. The matters at the
11 Second Circuit, three have been fully briefed, two briefing is
12 ongoing, and then Mr. Moss just appealed. So we'll have to see
13 how the appeals proceed. But --

14 THE COURT: Okay, thank you.

15 MR. ROSENBAUM: -- we'll see. You're welcome.

16 THE COURT: All right. We are in recess until 3
17 o'clock.

18 MR. ROSENBAUM: Thank you, Your Honor.

19 (Whereupon these proceedings were concluded at 11:13 AM)

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I N D E X

E X H I B I T S

TRUSTEE'S	DESCRIPTION	MARKED	ADMITTED
--	Declaration of Andrew D. Velez-Rivera		9

RULINGS:	PAGE	LINE
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C E R T I F I C A T I O N

I, Penina Wolicki, certify that the foregoing transcript is a true and accurate record of the proceedings.

Penina Wolicki

Penina Wolicki (CET-569)
AAERT Certified Electronic Transcriber
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Date: June 30, 2017

June 29, 2017

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